

By: Harris

S.B. No. 231

Substitute the following for S.B. No. 231:

By: Dutton

C.S.S.B. No. 231

A BILL TO BE ENTITLED

AN ACT

relating to child support enforcement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (g), Section 105.006, Family Code, is amended to read as follows:

(g) The Title IV-D agency shall promulgate and provide forms for a party to use in reporting to the court and~~[, when established, to]~~ the state case registry under Chapter 234 the information required under this section.

SECTION 2. Section 108.001, Family Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by this chapter, the clerk of the court shall transmit to the bureau of vital statistics a certified record of the order rendered in a suit, together with the name and all prior names, birth date, and place of birth of the child ~~[prepared by the petitioner]~~ on a form provided by the bureau. The form shall be completed by the petitioner and submitted to the clerk at the time the order is filed for record.

(d) In a Title IV-D case, the Title IV-D agency may transmit the record and information specified by Subsection (a) to the bureau of vital statistics, with a copy to the clerk of the court on request by the clerk. The record and information are not required to be certified if transmitted by the Title IV-D agency under this

1 subsection.

2 SECTION 3. Section 108.004, Family Code, is amended to read
3 as follows:

4 Sec. 108.004. TRANSMITTAL OF FILES ON LOSS OF JURISDICTION.
5 On the loss of jurisdiction of a court under Chapter 155, 159, or
6 262, the clerk of the court shall transmit to the central registry
7 of the bureau of vital statistics a certified record, on a form
8 provided by the bureau, stating that jurisdiction has been lost,
9 the reason for the loss of jurisdiction, and the name and all
10 previous names, date of birth, and place of birth of the child.

11 SECTION 4. Subsections (a) and (b), Section 154.186, Family
12 Code, are amended to read as follows:

13 (a) The obligee, obligor, or a child support agency of this
14 state or another state may send to the employer a copy of the order
15 requiring an employee to provide health insurance coverage for a
16 child or may include notice of the medical support order in an order
17 or writ of withholding sent to the employer in accordance with
18 Chapter 158.

19 (b) In an appropriate Title IV-D case, the Title IV-D agency
20 of this state or another state shall send to the employer the
21 national medical support notice required under Part D, Title IV of
22 the federal Social Security Act (42 U.S.C. Section 651 et seq.), as
23 amended. The notice may be used in any other suit in which an
24 obligor is ordered to provide health insurance coverage for a
25 child.

26 SECTION 5. Section 157.102, Family Code, is amended to read
27 as follows:

1 Sec. 157.102. CAPIAS OR WARRANT; DUTY OF LAW ENFORCEMENT
2 OFFICIALS. Law enforcement officials shall treat a [the] capias or
3 arrest warrant ordered under this chapter in the same manner as an
4 arrest warrant for a criminal offense and shall enter the capias or
5 warrant in the computer records for outstanding warrants maintained
6 by the local police, sheriff, and Department of Public Safety. The
7 capias or warrant shall be forwarded to and disseminated by the
8 Texas Crime Information Center and the National Crime Information
9 Center.

10 SECTION 6. Section 157.268, Family Code, is amended to read
11 as follows:

12 Sec. 157.268. APPLICATION OF CHILD SUPPORT PAYMENT. Child
13 support collected shall be applied in the following order of
14 priority:

- 15 (1) current child support;
- 16 (2) non-delinquent child support owed;
- 17 (3) interest on the principal amounts specified in
18 Subdivisions (4) and (5);
- 19 (4) the principal amount of child support that has not
20 been confirmed and reduced to money judgment;
- 21 (5) the principal amount of child support that has
22 been confirmed and reduced to money judgment; and
- 23 (6) the amount of any ordered attorney's fees or costs,
24 or Title IV-D service fees authorized under Section 231.103 for
25 which the obligor is responsible.

26 SECTION 7. Subdivision (1), Section 157.311, Family Code,
27 is amended to read as follows:

(1) "Account" means:

(A) any type of a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, money market mutual fund account, certificate of deposit, or any other instrument of deposit, including any accrued interest and dividends, in which an individual, as a signatory or not, has a beneficial ownership either in its entirety or on a shared or multiple party basis, including an account in which the individual has a community or separate property interest ~~[any accrued interest and dividends]~~; and

(B) a life insurance policy in which an individual has a beneficial ownership or liability insurance against which an individual has filed a claim or counterclaim.

SECTION 8. Section 157.313, Family Code, is amended by adding Subsection (f) to read as follows:

(f) The requirement under Subsections (a)(3) and (4) to provide a social security number, if known, does not apply to a lien notice for a lien on real property.

SECTION 9. Section 157.314, Family Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If a child support lien notice is delivered to a financial institution with respect to an account of the obligor, the institution shall immediately:

(1) provide the claimant with the last known address of the obligor and disclose to the claimant the amount in the obligor's account at the time of receipt of the notice, before the

1 deduction of any authorized fees; and

2 (2) notify any other person having an ownership
3 interest in the account that the account has been frozen in an
4 amount not to exceed the amount of the child support arrearage
5 identified in the notice.

6 (e) On request, a financial institution to which a child
7 support lien notice has been delivered shall provide the claimant
8 with a statement showing deposits to the obligor's account made
9 from the date of receipt of the child support lien notice to the
10 date of receipt of the request for information concerning deposits
11 made to the obligor's account.

12 SECTION 10. Subsection (a), Section 157.317, Family Code,
13 is amended to read as follows:

14 (a) A child support lien attaches to all real and personal
15 property of an obligor not exempt under the Texas Constitution or
16 other law, including:

17 (1) an account in a financial institution in which
18 funds are held for the obligor's benefit, regardless of whether the
19 account is in the name of the obligor or in the name of a nominal
20 owner other than the obligor;

21 (2) a retirement plan, including an individual
22 retirement account; and

23 (3) the proceeds of a life insurance policy, a claim
24 for negligence or personal injury, or an insurance settlement or
25 award for the claim, due to or owned by the obligor.

26 SECTION 11. Subsection (a), Section 157.318, Family Code,
27 is amended to read as follows:

1 (a) A lien is effective until all current support and child
2 support arrearages, including interest, ~~[and]~~ any costs and
3 reasonable attorney's fees, and any Title IV-D service fees
4 authorized under Section 231.103 for which the obligor is
5 responsible, have been paid or the lien is otherwise released as
6 provided by this subchapter.

7 SECTION 12. Section 157.324, Family Code, is amended to
8 read as follows:

9 Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR
10 LIEN. (a) A person who knowingly pays over, releases, sells,
11 transfers, encumbers, conveys, or otherwise disposes of property
12 subject to a child support lien ~~or~~ [7] who, after a foreclosure
13 hearing, fails to surrender on demand nonexempt personal property
14 as directed by a court ~~[or administrative order]~~ under this
15 subchapter~~[, or who fails to comply with a notice of levy under this~~
16 ~~subchapter]~~ is liable to the claimant for the greater of ~~[in]~~ an
17 amount equal to two times the value of the property paid over,
18 released, sold, transferred, encumbered, conveyed, or otherwise
19 disposed of or not surrendered or \$5,000, but not to exceed the
20 amount of the child support arrearages for which the lien~~[, notice~~
21 ~~of levy,]~~ or foreclosure judgment was issued.

22 (b) A claimant may recover costs and reasonable attorney's
23 fees incurred in an action under this section.

24 (c) Any amount paid by a person under this section may not be
25 credited against the child support arrearages owed by the obligor.

26 SECTION 13. Section 157.327, Family Code, is amended by
27 amending Subsections (b) and (c) and adding Subsection (f) to read

as follows:

(b) The notice under this section must:

(1) identify the amount of child support arrearages owing at the time the amount of arrearages was determined or, if the amount is less, the amount of arrearages owing at the time the notice is prepared and delivered to the financial institution; and

(2) direct the financial institution to pay to the claimant, not earlier than the 15th day or later than the 21st day after the date of delivery of the notice, an amount from the assets of the obligor or from funds due to the obligor that are held or controlled by the institution, not to exceed the amount of the child support arrearages identified in the notice, unless:

(A) the institution is notified by the claimant that the obligor has paid the arrearages or made arrangements satisfactory to the claimant for the payment of the arrearages;

(B) the obligor or another person files a suit under Section 157.323 requesting a hearing by the court; or

(C) if the claimant is the Title IV-D agency, the obligor has requested an agency review under Section 157.328.

(c) A financial institution that receives a notice of levy under this section may not close an account in which the obligor has an ownership interest, permit a withdrawal from any account the obligor owns, in whole or in part, or pay funds to the obligor so that any amount remaining in the account is less than the amount of the arrearages identified in the notice, plus any service fees due to the institution and any costs of the levy identified by the claimant.

1 (f) A financial institution may deduct the service fees and
2 costs identified in Subsection (c) from the obligor's assets before
3 paying the appropriate amount to the claimant.

4 SECTION 14. Section 157.329, Family Code, is amended to
5 read as follows:

6 Sec. 157.329. NO LIABILITY FOR COMPLIANCE WITH NOTICE OF
7 LIEN OR LEVY. A financial institution that possesses or has a right
8 to an obligor's assets for which a notice of lien or levy has been
9 delivered and that freezes assets subject to a child support lien or
10 timely surrenders the assets or right to assets in accordance with
11 [to] a child support levy [lien-claimant] is not liable to the
12 obligor or any other person for the property or rights frozen or
13 surrendered.

14 SECTION 15. Section 157.330, Family Code, is amended to
15 read as follows:

16 Sec. 157.330. FAILURE TO COMPLY WITH NOTICE OF LEVY. (a) A
17 person who possesses or has a right to property that is the subject
18 of a notice of levy delivered to the person and who refuses or fails
19 to timely surrender the property or right to property that should
20 have been paid or delivered to the claimant on demand is liable to
21 the claimant for the greater of [in] an amount equal to two times
22 the value of the property or right to property that should have been
23 paid or delivered or \$5,000, [not surrendered] but [that does] not
24 to exceed the amount of the child support arrearages for which the
25 notice of levy has been filed.

26 (b) A claimant may recover costs and reasonable attorney's
27 fees incurred in an action under this section.

SECTION 16. Subchapter C, Chapter 158, Family Code, is amended by adding Section 158.214 to read as follows:

Sec. 158.214. WITHHOLDING FROM LUMP-SUM PAYMENTS. (a) In this section, "lump-sum payment" means income in the form of a bonus or commission or an amount paid in lieu of vacation or other leave time. The term does not include an employee's usual earnings or an amount paid as severance pay on termination of employment.

(b) This section applies only to an employer who receives an administrative writ of withholding in a Title IV-D case that requires that an obligor's income be withheld for child support arrearages.

(c) An employer to whom this section applies may not make a lump-sum payment to the obligor in the amount of \$500 or more without first notifying the Title IV-D agency that issued the writ to determine whether all or a portion of the payment should be applied to the child support arrearages.

(d) After notifying the Title IV-D agency in compliance with Subsection (c), the employer may not make the lump-sum payment before the earlier of:

(1) the 10th day after the date on which the employer notified the Title IV-D agency; or

(2) the date on which the employer receives authorization from the Title IV-D agency to make the payment.

(e) If the employer receives a timely authorization from the Title IV-D agency under Subsection (d)(2), the employer may make the payment only in accordance with the terms of that authorization.

SECTION 17. Subsection (a), Section 158.502, Family Code, is amended to read as follows:

(a) An administrative writ of withholding under this subchapter may be issued by the Title IV-D agency at any time until all current support, including medical support, and child support arrearages, and Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid. The writ issued under this subsection may be based on an obligation in more than one support order.

SECTION 18. Section 158.506, Family Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) If a review under this section fails to resolve any issue in dispute, the obligor ~~[is entitled to the remedies provided by Section 158.317 for cases in which a notice of an application for judicial writ of withholding was not received. The obligor]~~ may file a motion with the court to withdraw the administrative writ of withholding and request a hearing with the court not later than the 30th day after receiving notice of the agency's determination. Income withholding may not be interrupted pending a hearing by the court.

(d) If an administrative writ of withholding issued under this subchapter is based on an order of a tribunal of another state that has not been registered under Chapter 159, the obligor may file a motion with an appropriate court in accordance with Subsection (c).

SECTION 19. Section 158.507, Family Code, is amended to

read as follows:

Sec. 158.507. ADMINISTRATIVE WRIT TERMINATING WITHHOLDING.
An administrative writ to terminate withholding may be issued and delivered to an employer by the Title IV-D agency when all current support, including medical support, and child support arrearages, and Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid.

SECTION 20. Subsection (b), Section 231.006, Family Code, is amended to read as follows:

(b) A child support obligor or business entity ineligible to receive payments under Subsection (a) ~~[or a child support obligor ineligible to receive payments under Subsection (a-1)]~~ remains ineligible until:

(1) all arrearages have been paid;

(2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency;
or

(3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from Subsection (a) as part of a court-supervised effort to improve earnings and child support payments.

SECTION 21. The heading to Section 231.012, Family Code, is amended to read as follows:

Sec. 231.012. CHILD SUPPORT ~~[COUNTY ADVISORY]~~ WORK GROUP.

SECTION 22. Subsections (a), (b), and (c), Section 231.012, Family Code, are amended to read as follows:

(a) The director of the Title IV-D agency may convene ~~[shall~~

1 ~~establish~~] a ~~[county advisory]~~ work group representing public and
2 private entities with an interest in child support enforcement in
3 this state to work with ~~[assist]~~ the director ~~[Title IV-D agency]~~ in
4 developing strategies to improve ~~[and changing]~~ child support
5 enforcement in this state ~~[programs that affect counties. The work~~
6 ~~group shall consist of at least one of each of the following:~~

- 7 ~~[(1) county judge;~~
8 ~~[(2) county commissioner;~~
9 ~~[(3) district clerk;~~
10 ~~[(4) domestic relations officer;~~
11 ~~[(5) associate judge for Title IV-D cases; and~~
12 ~~[(6) district court judge].~~

13 (b) The director of the Title IV-D agency shall appoint the
14 members of the work group after consulting with appropriate public
15 and private entities ~~[the relevant professional or trade~~
16 ~~associations of the professions that are represented on the work~~
17 ~~group. The director of the Title IV-D agency shall determine the~~
18 ~~number of members of the work group and shall designate the~~
19 ~~presiding officer of the group].~~

20 (c) The work group shall meet as convened by the director of
21 the Title IV-D agency and consult with ~~+~~

22 ~~[(1) advise]~~ the director on matters relating to ~~[of~~
23 ~~the Title IV-D agency of the impact on counties that a proposed]~~
24 child support enforcement in this state, including the delivery of
25 Title IV-D services ~~[program or a change in a program may have;~~

26 ~~[(2) establish a state-county child support~~
27 ~~improvement plan;~~

1 ~~[(3) advise the Title IV-D agency on the operation of~~
2 ~~the state disbursement unit,~~
3 ~~[(4) plan for monetary incentives for county~~
4 ~~partnership programs,~~
5 ~~[(5) expand the number of agreements with counties for~~
6 ~~enforcement services, and~~
7 ~~[(6) work with relevant statewide associations on a~~
8 ~~model partnership agreement].~~

9 SECTION 23. Section 231.103, Family Code, is amended by
10 amending Subsection (f) and adding Subsection (g-1) to read as
11 follows:

12 (f) The state disbursement unit established and operated by
13 the Title IV-D agency under Chapter 234 may collect a monthly
14 service fee of \$3 in each case in which ~~[deducted from]~~ support
15 payments are processed through the unit ~~[in a case for which the~~
16 ~~Title IV-D agency is not providing services]~~.

17 (g-1) A fee authorized under this section for providing
18 child support enforcement services is part of the child support
19 obligation if the obligor is responsible for the fee, and may be
20 enforced against the obligor through any method available for the
21 enforcement of child support, including contempt.

22 SECTION 24. Section 233.019, Family Code, is amended by
23 adding Subsection (d) to read as follows:

24 (d) A child support order issued by a tribunal of another
25 state and filed with an agreed review order as an exhibit to the
26 agreed review order shall be treated as a confirmed order without
27 the necessity of registration under Subchapter G, Chapter 159.

SECTION 25. Subsection (a), Section 234.008, Family Code, is amended to read as follows:

(a) Not ~~[Except as provided by Subsection (c) or (d), not]~~ later than the second business day after the date the state disbursement unit receives a child support payment, the state disbursement unit shall distribute the payment to the Title IV-D agency or the obligee.

SECTION 26. Subchapter A, Chapter 234, Family Code, is amended by adding Section 234.012 to read as follows:

Sec. 234.012. RELEASE OF INFORMATION FROM STATE CASE REGISTRY. Unless prohibited by a court in accordance with Section 105.006(c), the state case registry shall, on request and to the extent permitted by federal law, provide the information required under Sections 105.006 and 105.008 in any case included in the registry under Section 234.001(b) to:

- (1) any party to the proceeding;
- (2) an amicus attorney;
- (3) an attorney ad litem;
- (4) a friend of the court;
- (5) a guardian ad litem;
- (6) a domestic relations office;
- (7) a prosecuting attorney or juvenile court acting in a proceeding under Title 3; or
- (8) a governmental entity or court acting in a proceeding under Chapter 262.

SECTION 27. The following provisions of the Family Code are repealed:

- 1 (1) Subsection (a-1), Section 231.006;
- 2 (2) Section 231.011;
- 3 (3) Subsection (d), Section 231.103;
- 4 (4) Section 231.310;
- 5 (5) Subsections (c), (d), and (e), Section 234.008;
- 6 and
- 7 (6) Chapter 235.

8 SECTION 28. (a) The changes in law made by this Act to
9 Sections 157.311, 157.313, and 157.317, Family Code, apply only to
10 a child support lien notice or suit filed on or after the effective
11 date of this Act. A child support lien notice or suit filed before
12 the effective date of this Act is governed by the law in effect on
13 the date the lien notice or suit was filed, and the former law is
14 continued in effect for that purpose.

15 (b) Section 157.314, Family Code, as amended by this Act,
16 and Subsection (f), Section 157.327, Family Code, as added by this
17 Act, apply only to a financial institution that receives a lien
18 notice or notice of levy under those sections on or after the
19 effective date of this Act. A financial institution that receives a
20 lien notice or notice of levy under those sections before the
21 effective date of this Act is governed by the law in effect on the
22 date the lien notice or notice of levy is received, and the former
23 law is continued in effect for that purpose.

24 (c) The changes in law made by this Act to Section 158.506,
25 Family Code, apply only to an administrative writ of withholding
26 issued on or after the effective date of this Act. An
27 administrative writ of withholding issued before the effective date

1 of this Act is governed by the law in effect at the time the
2 administrative writ is issued, and the former law is continued in
3 effect for that purpose.

4 (d) The changes in law made by this Act to Section 231.103,
5 Family Code, apply only to fees that are incurred on or after the
6 date that the rules adopted in accordance with that section take
7 effect.

8 (e) The changes in law made by this Act relating to a court
9 order establishing paternity or the obligation to pay child support
10 apply only to a suit affecting the parent-child relationship filed
11 on or after the effective date of this Act. A suit affecting the
12 parent-child relationship filed before the effective date of this
13 Act is governed by the law in effect on the date the suit was filed,
14 and the former law is continued in effect for that purpose.

15 (f) The changes in law made by this Act relating to the
16 modification or enforcement of a child support order rendered
17 before the effective date of this Act apply only to a proceeding for
18 modification or enforcement that is commenced on or after the
19 effective date of this Act. A proceeding for modification or
20 enforcement that is commenced before the effective date of this Act
21 is governed by the law in effect on the date the proceeding was
22 commenced, and the former law is continued in effect for that
23 purpose.

24 SECTION 29. This Act takes effect September 1, 2007.